

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

CULVER CITY UNIFIED SCHOOL  
DISTRICT.

OAH Case No. 2016030299

ORDER DENYING NOTICE OF  
SUFFICIENCY

On February 29, 2016, Parent on behalf of Student filed a Due Process Hearing Request<sup>1</sup> (complaint) with the Office of Administrative Hearings, naming Culver City Unified School District. On March 16, 2016, Culver City timely filed a Notice of Insufficiency as to Student's complaint.

APPLICABLE LAW

The named parties to a due process hearing request have the right to challenge the sufficiency of the complaint. (20 U.S.C. § 1415(b) & (c).) The party filing the complaint is not entitled to a hearing unless the complaint meets the requirements of title 20 United States Code section 1415(b)(7)(A).

A complaint is sufficient if it contains: (1) a description of the nature of the problem of the child relating to the proposed initiation or change concerning the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to the child; (2) facts relating to the problem; and (3) a proposed resolution of the problem to the extent known and available to the party at the time. (20 U.S.C. § 1415(b)(7)(A)(ii)(III) & (IV).) These requirements prevent vague and confusing complaints, and promote fairness by providing the named parties with sufficient information to know how to prepare for the hearing and how to participate in resolution sessions and mediation. (See H.R.Rep. No. 108-77, 1st Sess. (2003), p. 115; Sen. Rep. No. 108-185, 1st Sess. (2003), pp. 34-35.)

The complaint provides enough information when it provides "an awareness and understanding of the issues forming the basis of the complaint." (Sen. Rep. No. 108-185, *supra*, at p. 34.) The pleading requirements should be liberally construed in light of the broad remedial purposes of the IDEA and the relative informality of the due process hearings

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<sup>1</sup> A request for a due process hearing under Education Code section 56502 is the due process complaint notice required under title 20 U.S.C. section 1415(b)(7)(A).

it authorizes. (*Alexandra R. ex rel. Burke v. Brookline School Dist.* (D.N.H., Sept. 10, 2009, CIV. 06-CV-0215-JL) 2009 WL 2957991[nonpub. opn.]; *Escambia County Bd. of Educ. v. Benton* (S.D. Ala. 2005) 406 F.Supp.2d 1248, 1259-1260; *Sammons v. Polk County School Bd.* (M.D. Fla., Oct. 28, 2005, 8:04CV2657T24EAJ) 2005 WL 2850076 [nonpub. opn.]; but cf. *M.S.-G v. Lenape Regional High School Dist. Bd. of Educ.* (3d Cir. 2009) 306 Fed.Appx. 772, 775 [nonpub. opn.].) Whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge. (*Assistance to States for the Educ. of Children with Disabilities & Preschool Grants for Children with Disabilities* (Aug. 14, 2006) 71 FR 46,540-46541, 46699.)

## DISCUSSION

Student's complaint alleges that Student is almost five years old, and is deaf and uses cochlear implants. The complaint identifies the Parent's name and address. Student alleges Culver City was notified that Student was deaf and in need of special education before he turned three years old, and District did not assess Student or hold an individualized education plan meeting until May 16, 2014. Student also alleges at the IEP meeting, Culver City failed to offer an appropriate placement in the least restrictive environment, including appropriate services to address his needs as a deaf and hard of hearing child. Student's complaint includes proposed resolutions, including convening an IEP meeting to develop an appropriate program, including placement, services, and auxiliary equipment for Student, and compensatory education and services. District contends that the facts do not contain enough details, including dates, rendering the complaint insufficient.

The facts alleged in Student's complaint are sufficient to put District on notice of the nature of the problems forming the basis of the complaint, to permit District to respond to the complaint, and participate in a resolution session and mediation. Student's complaint, including proposed resolutions, is sufficient.

## ORDER

1. The complaint is sufficient under title 20 United States Code section 1415(b)(7)(A)(ii).
2. All mediation, prehearing conference, and hearing dates in this matter are confirmed.

DATE: March 17, 2016

DocuSigned by:

*Adrienne L. Krikorian*

ADRIENNE L. KRIKORIAN

Administrative Law Judge

Office of Administrative Hearings